

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X CASE NO.: 05 CV 10169 (DAB)

BENJAMIN CUNNINGHAM,

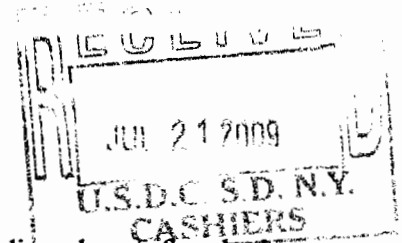
PLAINTIFF,

-against-

TIMOTHY J. O'CALLAGHAN & ETC.,

DEFENDANTS.

NOTICE OF MOTION BY
GARY S. FISH, ESQ., FOR
RULE 11 SANCTIONS TO BE
IMPOSED AGAINST
PLAINTIFF BENJAMIN
CUNNINGHAM



-----X
SIR/MADAM:

PLEASE TAKE NOTICE that upon all papers and proceedings heretofore had
herein, including the July 20, 2009 Declaration of Gary S. Fish, Esq., Federal Rule of Civil
Procedure ("FRCP") Rule 11, Gary S. Fish, Esq., former attorney for plaintiff will move the
Court, per The Honorable Deborah Batts, USDJ, Southern District of New York, 500 Pearl
Street, Room 2510, NY, NY 10007, for Rule 11 sanctions to be imposed against plaintiff

Benjamin Cunningham, whose July 17, 2009 motion to institute disciplinary proceedings against
Gary S. Fish, Esq., was made solely to harass counsel, is without merit in fact or in law, which
motion lacks even a scintilla of admissible evidence in support thereof, and Rule 11 sanctions,
including reasonable attorney fees and costs should be levied by the Court after a Rule 11©
Order to Show Cause hearing with respect thereto.

DATED: NEW YORK, NEW YORK
JULY 20, 2009

SO ORDERED

Deborah A. Batts

DEBORAH A. BATTS
UNITED STATES DISTRICT JUDGE

Respectfully submitted,

Gary S. Fish

Gary S. Fish, Esq. (GSF 6551)
Former Attorney for Plaintiff, 15
Maiden Lane, Suite 1108
NY, NY 10038; (212) 964-5100

MEMO ENDORSED

MEMO ENDORSED

*denied
DOB
8/4/09*